

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Kirk Cutler

v.

Civil No. 12-cv-00350-JL

Christopher Carbonneau, et al.

**ORDER AFTER PRELIMINARY
PRETRIAL CONFERENCE**

The Preliminary Pretrial Conference was held in chambers on **October 29, 2012.**

The Discovery Plan (document no. 7) is approved as submitted, with the following changes:

- Close of discovery - **September 15, 2013**
- Summary judgment deadline - **120 days prior to final pretrial conference**
- Jury trial - **March, 2014**

If requested by the plaintiff, the defendants will amend ¶¶ 4-5, 20, 33, 36 (Carbonneau) and ¶¶ 6, 8, 9, 16-18 (County) of their Answers to clearly indicate their positions with respect to the corresponding Complaint paragraphs. Based upon the discussion between the court and counsel at the conference, plaintiff's excessive force claim in Count I, which is brought against defendant Carbonneau only, shall be construed to state a claim for deprivation of plaintiff's Eighth Amendment rights. Plaintiff need not amend his complaint to so specify.

Summary Judgment. The parties and counsel are advised that compliance with Rule 56(e) and Local Rule 7.2(b), regarding evidentiary support for factual assertions, and specification and delineation of material issues of disputed fact, will be required.

Oral argument on dispositive motions. Counsel and the parties should anticipate that oral argument will be held on all dispositive motions. Any party preferring that such a motion be decided on the written filings alone should so notify the clerk.

Discovery disputes. Discovery disputes will be handled by the undersigned judge, as opposed to the Magistrate Judge, in the normal course. No motion to compel is necessary. The party or counsel seeking discovery-related relief should confer with adverse counsel to choose mutually available dates, and then contact the Deputy Clerk to schedule a conference call with the court. The court will inform counsel and parties what written materials, if any, should be submitted in advance of the conference call.

Customary motions to compel discovery, while disfavored by the undersigned judge, are nonetheless permissible. If counsel prefer traditional discovery litigation to the conference call procedure set forth above, any such motion to compel should expressly request, in the title of the motion, a referral to the United States Magistrate Judge. Such referral requests will

normally be granted. If the Magistrate Judge is recused, alternate arrangements will be made.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: October 30, 2012

cc: Charles G. Douglas, III, Esq.
Andrew B. Livernois, Esq.
Corey M. Belobrow, Esq.